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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/250,475 02/13/99 CURRIER

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QM12/0920

EXAMINER

HALE, G

ART UNIT

PAPER NUMBER

3741

DATE MAILED:

09/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/250,475

Applicant(s)

Currier

Examiner
Hale

Group Art Unit
3741



- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-12 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 5-9, and 11 is/are rejected.
- ☒ Claim(s) 4, 10, and 12 is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by James.

In regard to claim 2, James discloses the front opening body garment (10); left and right front panels (not numbered); left and right shoulders (at 7"); first rear portion neckline (not numbered); a front opening bra (1); left and right panels (5) and shoulder straps at (7); second rear neckline (not numbered) wherein the first and second rear portion necklines are unconnected and movable independently of one another. (See James, figures 1 and 2).

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 3,5,6,8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Greene.

In claim 3, Greene discloses an outer garment with a front opening upper body garment with left and right front panels (32,34); shoulders (36,38) and an independent front opening bra with left and right breast panels (26,28) with elastic means (40,42) with in the lower portions.

(See Greene, figure 2a and cols. 3-4).

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In regard to claim 5, the body portions of Greene are of elastic material with elastic means as claimed. (See Figure 2a and cols. 3-4).

In regard to claim 6, Greene discloses the lower perimeter of the body portions as having elastic means (40,42). (See Greene, figure 2a and cols. 3-4).

In regard to claim 8, Greene discloses the outer garment with the left and right front panels (32,34) with the shoulders and front opening (25) bra with the shoulders (36,38) connecting means and with elastic lower portions (40,42) as claimed. (See Greene, figure 2a and cols. 3-4).

In regard to claim 9, Greene discloses the bra as being of elastic material and elastic perimeters. (See Greene, cols. 3-4).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greene.

Greene discloses the garment with the elastic portions (40,42) substantially as claimed and as discussed above. However, Greene does not specifically disclose the elastic as being covered with a gathered material. The examiner takes official notice that it is well known to cover elastic

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with a gathered material to cover the elastic and provide a desired aesthetic effect. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to cover the elastic with a gathered fabric for a desired aesthetic effect to cover the elastic from view.

6. Claims 4, 10 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the cited references, alone or in combination, disclose the elastic perimeter on the panels as claimed in claim 10 and the independently moveable rear neckline portions between the outer and inner garments as claimed in claim 4 and 12.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose multi-layer support garments.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is (703) 308-1282.


Gloria Hale

Patent examiner - Art Unit 3741

September 16, 1999